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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,990	02/13/2002	Michael James Scott	5173-06	6875

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EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,990

Applicant(s)

SCOTT ET AL. 9

Examiner

Reginald L. Alexander

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1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-11, 22-31 and 39-41 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 12-21 and 32-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: .

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: At line 1 there is a typographical error with the spelling of "vessela". Appropriate correction is required.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of the presence, at line 4, of legal phraseology. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-31, 39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis in claims 26, 27, 29, 31 and 40 for the recited "latch" or "latch release mechanism". There is no antecedent basis in claim 39 for the recited "resilient latch member".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 41 is rejected under 35 U.S.C. 102(e) as being anticipated by Jorgensen.

There is disclosed in Jorgensen an electric beverage maker comprising: a liquid heating vessel 102; a funnel 126 extending into the vessel; and an electric heater 166 for heating liquid in the vessel, wherein a portion 174 of the heater directly below the funnel is unheated.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8, 10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laama et al in view of Jorgensen.

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There is disclosed in Laama an electric beverage maker comprising: a lower water boiling vessel 12 having an integral heating base unit; a funnel 20 extending into the lower vessel and having an upper compartment 70 for receiving a beverage making material; and an upper vessel 14 mounted over the funnel to receive water which has passed up the funnel through the compartment.

Jorgensen, as discussed above, discloses a lower water boiling vessel 102 formed with an opening in its lower region, and in that opening an electric heater 154, 166 is mounted to close the opening thereby forming a heating base for the lower vessel.

It would have been obvious to one skilled in the art to modify the heating base of Laama with that taught by Jorgensen and provide a removable heater assembly, in order to allow for easy cleaning of the vessel and heater.

In regards to claims 2 and 4, the use of plastics to construct the brewing and serving vessels is an obvious matter of design choice since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

In regards to claim 8 there is disclosed in Laama thermally sensitive control 110.

Claims 11 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laama in view of Taylor.

Laama, as discussed above, discloses all of the claimed subject matter except means for manually resetting the thermally sensitive control.

Taylor discloses a water boiling vessel and heating arrangement therefor, the heater having a thermally sensitive control 2 and a manual reset mechanism 28. It would have been obvious to one skilled in the art to substitute the thermally sensitive control assembly of Laama with that taught by Taylor, in order to control manually the operation of the heater. Thus, preventing any chance of the heater turning on and damaging the vessel.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laama in view of Jorgensen as applied to claims 1 and 8 above, and further in view of Taylor.

Taylor, as discussed above, discloses a thermally sensitive control and manual reset therefor.

It would have been obvious to one skilled in the art to substitute the thermally sensitive control assembly of Laama, as modified by Jorgensen, with that taught by Taylor, in order to control manually the operation of the heater. Thus, preventing any chance of the heater turning on and damaging the vessel.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laama in view of Taylor as applied to claim 11 above, and further in view of Jorgensen.

Jorgensen discloses that it is known in the art to have an unheated region of a boiling vessel directly below the funnel. It would have been obvious to one skilled in the art to modify the vessel heating base of Laama, as modified by Taylor, with that taught by Jorgensen, in order to prevent the brewed beverage from getting burned by a heating base having a temperature higher than the beverage.

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Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laama in view of Jorgensen as applied to claim 1 above, and further in view of Chang.

Chang discloses that it is known in the art to provide an indicator light with illuminates during heating of a liquid. It would have been obvious to one skilled in the art to provide the device of Laama, as modified by Jorgensen, with the indicator light taught by Chang, in order to give the user a visual indication that the heating device is in use.

### ***Allowable Subject Matter***

Claims 6, 7, 12-21 and 32-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-31 and 40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Wickenberg et al and Chhatwal are cited for their disclosure of the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 703-308-1594. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

rla  
April 1, 2003

Reginald L. Alexander  
Primary Examiner  
Art Unit 1761

*Reginald L. Alexander*